



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,824	07/20/2005	Jeremy Bruestle	391258002US1	8436
25096	7590	07/19/2007		
PERKINS COIE LLP PATENT-SEA P.O. BOX 1247 SEATTLE, WA 98111-1247			EXAMINER LANIER, BENJAMIN E	
			ART UNIT 2132	PAPER NUMBER
			MAIL DATE 07/19/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

88

Office Action Summary	Application No. 10/542,824	Applicant(s) BRUESTLE ET AL.	
	Examiner Benjamin E. Lanier	Art Unit 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed 27 June 2007 adds claim 42. Applicant's amendment has been fully considered and entered.

Response to Arguments

2. In response to applicant's arguments, the recitation "a network of non-trusting computing devices", with respect to claims 27-41, has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).
3. With this response, Applicant has introduced new claim 42, which does include the recitation of the sending computing device and the recipient computing device being non-trusting. Grounds of rejection are set forth below for new claim 42.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 27-29, 31, 32, 36-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Cain, U.S. Publication No. 2003/0204625. Referring to claims 27, 31, 32, 36, Cain discloses dynamic routing in a hierarchical mobile ad-hoc network wherein a request is sent from a source node to another cluster node to connect with a destination node ([0055]), which meets the limitation of a recipient computing device, and a sending computing device that sends a circuit establishment request/document thereby causing a communications circuit to be established between the sending computing device and the recipient computer device. The cluster node that receives the request forwards the request to adjacent cluster nodes in the hierarchy until the destination node is discovered ([0058]-[0060] & [0062]), which meets the limitation of dynamically calculated from the sending computing device to the recipient computing device via a set of intermediate computer devices without consulting a central administration computing device. The request includes parameters such as quality of service ([0058]), which meets the limitation of the circuit establishment request having an indication of a desired quality of service that is enforced by each computing device in the set of intermediate computing devices.

Referring to claim 28, Cain discloses that once the path is determined, it is forwarded to the source node, which allows data to be transferred from the source node to the destination node ([0065] & [0067]), which meets the limitation of the sending computing device sends a packet to the recipient computing device using a hierarchical dynamic routing protocol.

Referring to claim 29, Cain discloses that the request includes parameters such as quality of service ([0058]), which meets the limitation of the dynamic routing protocol propagates quality of service information to each intermediate computing device.

Referring to claim 37, Cain discloses a hierarchical mesh network (Figure 3).

Referring to claims 38, 39, Cain discloses that the nodes in the network have corresponding identifiers associated with them ([0015]), which meets the limitation of each computing device of the hierarchical mesh network is identified by a name comprising a set of identifiers separated by a separator, organized in the name from specific to general.

Referring to claims 40, 41, Cain discloses that the network contains cluster leader nodes ([0058]), which meets the limitation of the hierarchical mesh network includes a meta-node, the meta-node indicates a computing device and a network of computing devices, the indicated computing device and network of computing devices representing peers in a hierarchy.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cain, U.S.

Publication No. 2003/0204625, in view of Hsu, U.S. Patent No. 6,987,764. Referring to claim 30, Cain does not disclose encrypting communications. Hsu discloses a mobile data

Art Unit: 2132

communication system wherein communications are encrypted (Col. 7, lines 36-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to encrypt the communications of Cain in order to provide a means for access control of the data communications to intended recipients as taught by Hsu (Col. 7, lines 33-41).

9. Claims 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cain, U.S. Publication No. 2003/0204625, in view of Naghian, U.S. Publication No. 2003/0235175.

Referring to claims 33-35, Cain does not disclose the source node including access rights with the request message. Naghian discloses a mobile mesh ad-hoc network where each node in the network has access rights and certificates associated with it used during requests for communication ([0051]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize access rights for each node in the ad-hoc network of Cain in order to provide a network that provides authentication/access control at each node as taught by Naghian ([0051]).

10. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Faybishenko, U.S. Publication No. 2003/0182421, in view of Billhartz, U.S. Publication No. 2003/0202476.

Referring to claim 42, Faybishenko discloses a peer-to-peer network wherein a first peer may request services offered by a second peer ([0137]) that were determined during discovery ([0147]), which meets the limitation of a recipient computing device, and a sending computing device that sends a circuit establishment request thereby causing a communications circuit to be established between the sending computing device and the recipient computing device. The route between the first and second peers is dynamically determined using other peers within the peer-to-peer network ([0147]), which meets the limitation of a route is dynamically calculated from

Art Unit: 2132

the sending computing device to the recipient computing device via a set of intermediate computing devices without consulting a central administration computing device because the route is determined by the intermediate peers ([0147]). Communication between peers may require mutual discovery ([0199]), which meets the limitation of the sending computing device and the recipient computing device are non-trusting computing devices prior to the dynamic calculation of the route. Faybishenko discloses that the peer-to-peer communications include a quality of service parameter. Faybishenko does not disclose that a peer communication request includes a designation of a requested quality of service. Billhartz discloses a source node includes a quality of service parameter when requesting communications with a destination node ([0013]), which meets the limitation of the circuit establishment request having an indication of a desired quality of service that is enforced by each computing device in the set of intermediate computing devices. It would have been obvious to one of ordinary skill in the art at the time the invention was made for the peers of Faybishenko to include a quality of service parameter in the requests for communication with other peers, such that the dynamically determined communication route can be determined such that appropriate quality of service can be maintained as taught by Billhartz ([0013]-[0014]).

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

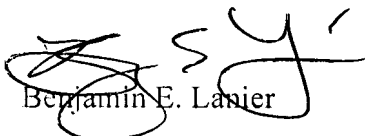
Art Unit: 2132

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin E. Lanier whose telephone number is 571-272-3805. The examiner can normally be reached on M-Th 7:30am-5:00pm, F 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Benjamin E. Lanier